

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

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In re:

PROMESA
Title III

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

No. 17 BK 3283-LTS

THE COMMONWEALTH OF PUERTO RICO,
et al.,

(Jointly Administered)

Debtors.¹
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ORDER CERTIFYING MATTERS TO THE ATTORNEY GENERAL OF THE UNITED STATES

On August 7, 2017, Aurelius Investment, LLC, Aurelius Opportunities Fund, LLC, and Lex Claims, LLC (collectively, the “Movant”) filed the (i) *Objection and Motion of Aurelius to Dismiss Title III Petition* (Docket entry no. 913, the “Motion to Dismiss”) and (ii) *Motion of Aurelius for Relief from the Automatic Stay* (Docket entry no. 914, the “Stay Relief Motion” and, together with the Motion to Dismiss, the “Motions”). By and through the Motion to Dismiss, the Movant argues the mechanism for the appointment of the members of the Financial Oversight and Management Board for Puerto Rico (“the Oversight Board”) violates the Appointment Clause and separation-of-powers principles of the United States Constitution and that the above-captioned Title III proceedings must therefore be dismissed as invalid. The Stay Relief Motion seeks either (i) clarification that the automatic stay under 11 U.S.C. §§ 362 and 922, made applicable to Title III proceedings pursuant to 48 U.S.C. § 2162(a), does not apply or, alternatively, (ii) relief from the stay to commence an action against the Oversight Board and its members on the grounds that they were appointed in violation of the Appointments Clause of the United States Constitution and that the Board violates the separation of powers.

Where “[a] party [] files a pleading, written motion, or other paper drawing into question the constitutionality of a federal . . . statute,” the Federal Rules of Civil Procedure

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); and (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

mandate that the Court certify the constitutional challenge to the Attorney General. Fed. R. Civ. P. 5.1.

It is hereby ORDERED that the Movants' challenge to the constitutionality of the Puerto Rico Oversight, Management, Economic Stability Act ("PROMESA"), Pub. L. No. 114-187, 130 Stat. 549 (2016), on the grounds that the appointment of the Board members of the Oversight Board violates the Appointment Clause and the separation-of-powers principles of the United States Constitution is certified to the Attorney General of the United States; and it is further

ORDERED that the Clerk of this Court shall forward a copy of this Order and the Motions (Docket entry nos. 913 and 914) to the Attorney General of the United States.

SO ORDERED.

Dated: August 17, 2017

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge